IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.2855 OF 2003
Along with
CIVIL APPLICATION NO.1368 OF 2003
In
W.P.No.2855 of 2003

W.P.No.2855 of 2003

Indubai Raoji Chougule. .. Petitioner

Vs.

The State of Maharashtra & Anr. .. Respondents

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Shri S.M.Sabrad for the petitioner.

Shri V.S.Gokhale, AGP for respondent Nos.1 and 2.

Shri P.M.Pradhan for Intervener.

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Civil Application No.1368 of 2003
in
Writ Petition No.2855 of 2003

Grampanchayat Adamapur,
through the Surpanch Admapur. .. Applicant

Vs.

Smt.Indubai Raoji Chougule & Ors. .. Respondents

--

Shri P.M.Pradhan for the Applicant.

Shri S.M.Sabrad for respondent No.1.

Shri V.S.Gokhale, AGP for respondent Nos.2 and 3.

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CORAM : R.M.S.KHANDEPARKAR &
V.M.KANADE, JJ.

DATED : 28TH SEPTEMBER, 2005.

P.C.

1. In the present petition, specific averment has been made in paragraph 15 of the petition that the suit which is filed by the petitioner challenging the acquisition proceedings would be withdrawn. On the basis of undertaking given by the petitioner in the said paragraph, the Division Bench of this Court (C.K.Thakker, C.J with Dr.D.Y.Chandrachud, J) by order dated 25th April, 2003 recorded the statement made by learned counsel for the petitioner that the petitioner will withdraw the suit which has been instituted within a period of one week from the date of the order i.e. 25th April, 2005.

2. Learned counsel appearing on behalf of the Government states on instructions that the said suit has not been withdrawn till today and it was on the board of Civil Judge, Senior Division, Kolhapur, on 17th June, 2005, in respect of Exhibit-5 application preferred by the plaintiff in the said suit. It is thus clear that inspite of the specific undertaking being given on oath by the petitioner in paragraph 15

of the petition and reiterated the same by learned counsel for the petitioner, which has been recorded by the Division Bench of this Court in its order dated 25th April, 2003, the petitioner failed to withdraw the said suit. Therefore, in view of the breach of the said undertaking, the petition is liable to be dismissed. The writ petition is accordingly dismissed. Rule stands discharged. Interim relief stands vacated.

3. In view of the above, Civil Application No.1368 of 2003 disposed of.

(R.M.S.KHANDEPARKAR, J)

(V.M.KANADE, J)